

## **Assembly Bill No. 1229**

### **CHAPTER 503**

An act to amend Sections 10200, 10212, 10216, 10222, 10230, 10231, 10234, 10236, 10239, 10240, 10241, 10242, 10243, 10251, 10252, 10254, 10261, and 10276 of, and to add Sections 10224, 10231.5, 10235.5, 10260.5, and 10262.1 to, the Public Resources Code, relating to agricultural lands, and making an appropriation therefor.

[Approved by Governor September 27, 1999. Filed  
with Secretary of State September 27, 1999.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 1229, Committee on Agriculture. Agricultural land conservation: districts.

(1) Existing law, the Agricultural Land Stewardship Program Act of 1995, establishes a program for grants from the Department of Conservation to local governments and nonprofit organizations, subject to prescribed requirements and in accordance with prescribed procedures, for the acquisition of agricultural conservation easements, as defined, and for incidental costs, as specified. The act specifies that an "agricultural conservation easement" or "easement" means an interest in land, less than fee simple, that represents the right to prevent the development or improvements of the land, as specified, for any purpose other than agricultural production, and requires that an agricultural conservation easement be granted by the owner of a fee simple interest in land to a local government or nonprofit organization, for the program. The act defines an "applicant" to mean a city, county, or nonprofit organization that applies for a grant to acquire an agricultural easement.

This bill would rename the program to the California Farmland Conservancy Program, and require that an easement also be granted by the owner of a fee simple interest in land to a resource conservation district, or to a regional park or open-space district or regional park or open-space authority that has the conservation of farmland among its stated purposes, as prescribed by statute, or as expressed in the district's or authority's locally adopted policies, for the program. The bill would revise the definition of "applicant," as specified, and would add a definition of "resources conservation district" for purposes of the act. The bill would provide that, with a specified exception, an easement may, at the request of the landowner, establish provisions that are more restrictive than those provided in the act. The bill would prescribe various requirements for the termination and repurchase of an easement, and the

distribution of moneys received in connection with the termination of an easement.

The bill would authorize the department to accept donations of funds if the department is the designated beneficiary of the donation and it agrees to use the funds for program purposes in a county specified by the donor, and to establish a payment system for the purchase of agricultural conservation easements that is mutually satisfactory to the department and the seller of the easement, if full payment is secured. The bill would prescribe various other related matters.

(2) Existing law creates the Agricultural Land Stewardship Program Fund, and authorizes the deposit of money into the fund from gifts, donations, proceeds from the sale of general obligation bonds, funds appropriated therefor by the Legislature, federal grants or loans, or other sources, and makes those moneys available, upon appropriation by the Legislature, for the implementation of the program.

This bill would rename that fund to the California Farmland Conservancy Fund, and would instead provide that moneys in the fund may be expended, upon appropriation by the Legislature in the annual Budget Act, for the purposes of the program, but would require that moneys deposited into the fund from federal grants, and gifts and donations that are designated and required by the donor to be used exclusively for the purposes of the program, be continuously appropriated to the department for expenditure for the purposes of the program, thereby making an appropriation.

Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 10200 of the Public Resources Code is amended to read:

10200. This division shall be known, and may be cited, as the California Farmland Conservancy Program Act. Any other references in this division to the Agricultural Land Stewardship Program Act of 1995 shall hereafter mean the California Farmland Conservancy Program Act.

SEC. 1.5. Section 10211 of the Public Resources Code is amended to read:

10211. “Agricultural conservation easement” or “easement” means an interest in land, less than fee simple, which represents the right to prevent the development or improvement of the land, as specified in Section 815.1 of the Civil Code, for any purpose other than agricultural production. The easement shall be granted for the California Farmland Conservancy Program by the owner of a fee simple interest in land to a local government, nonprofit organization, resource conservation district, , or to a regional park or open-space



district or regional park or open-space authority that has the conservation of farmland among its stated purposes, as prescribed by statute, or as expressed in the entity's locally adopted policies, for the California Farmland Conservancy Program. It shall be granted in perpetuity as the equivalent of covenants running with the land.

SEC. 2. Section 10212 of the Public Resources Code is amended to read:

10212. "Applicant" means a city, county, nonprofit organization, resource conservation district, , or to a regional park or open-space district or regional park or open-space authority that has the conservation of farmland among its stated purposes, as prescribed by statute, or as expressed in the entity's locally adopted policies, that applies for a grant to acquire an agricultural conservation easement.

SEC. 3. Section 10216 of the Public Resources Code is amended to read:

10216. "Fund" means the California Farmland Conservancy Program Fund created pursuant to Section 10230.

SEC. 4. Section 10222 of the Public Resources Code is amended to read:

10222. "Program" means the California Farmland Conservancy Program established under this division.

SEC. 5. Section 10224 is added to the Public Resources Code, to read:

10224. "Resource conservation district" means a resource conservation district established pursuant to Division 9 (commencing with Section 9000).

SEC. 6. Section 10230 of the Public Resources Code is amended to read:

10230. (a) (1) The California Farmland Conservancy Program Fund is hereby created.

Except as provided in paragraph (2), the moneys in the fund shall, upon appropriation by the Legislature in the annual Budget Act, be used for the purposes of the program, which include the purchase of agricultural conservation easements, land improvement and planning grants, technical assistance provided by the department, technology transfer activities of the department, and administrative costs incurred by the department in administering the program.

(2) Notwithstanding paragraph (1), moneys may be deposited into the fund from federal grants, and gifts and donations that are designated and required by the donor to be used exclusively for the purposes of the program, and notwithstanding Section 13340 of the Government Code, those moneys are hereby continuously appropriated to the department for expenditure for the purposes of this program.

(b) Not to exceed 10 percent of all grants made by the department pursuant to this division may be made for land improvement purposes and policy planning purposes. Not less than 90 percent of

funds available for grants pursuant to this division shall be expended for the acquisition of interests in land.

SEC. 7. Section 10231 of the Public Resources Code is amended to read:

10231. Money available from the fund shall be utilized in accordance with the expenditures and distribution authorized, required, or otherwise provided in the program for the acquisition of agricultural conservation easements. This includes all direct costs incidental to the acquisition of agricultural conservation easements, including costs associated with a loss in property tax revenues resulting from the acquisition of those agricultural conservation easements. Direct costs paid to the applicant shall not exceed 10 percent of the value of the easements for which the costs were incurred.

SEC. 8. Section 10231.5 is added to the Public Resources Code, to read:

10231.5. The department may accept donations of funds if the department is the designated beneficiary of the donation and it agrees to use the funds for purposes of the program in a county specified by the donor. Any donation made to the department pursuant to this section is subject to the requirements of Sections 11005 and 16302 of the Government Code.

SEC. 9. Section 10234 of the Public Resources Code is amended to read:

10234. Every application for a grant for the acquisition of an agricultural conservation easement shall be accompanied by a resolution from the governing body of the local government in which the proposed easement is located certifying both of the following:

(a) The easement proposal meets the eligibility criteria set forth in Section 10251.

(b) The easement proposal has been approved by the appropriate local governmental governing body.

SEC. 10. Section 10235.5 is added to the Public Resources Code, to read:

10235.5. The department may establish a payment system for the purchase of an agricultural conservation easement that is mutually satisfactory to the department and the seller of the easement, provided that full payment for the easement is secured.

SEC. 11. Section 10236 of the Public Resources Code is amended to read:

10236. If the funds are used for the acquisition of an agricultural conservation easement pursuant to a local transfer of development rights program, upon the sale of the easement and its attendant development rights, the entity that holds the easement shall reimburse the fund by an amount equal to the fair market value of the easement.



SEC. 12. Section 10239 of the Public Resources Code is amended to read:

10239. The director shall disburse funds to applicants for the acquisition of fee title to agricultural land from owners only if all of the following conditions are met:

(a) The applicant agrees, upon acquisition of the property, to treat the property as encumbered by an agricultural conservation easement subject to Section 10262.

(b) The applicant sells the fee title subject to an agricultural conservation easement to a private landowner within three years of the acquisition of the fee title.

(c) The applicant reimburses the fund by an amount equal to the fair market value of the land less the value of the easement and associated transaction costs within 30 days after the sale of the restricted fee title.

SEC. 13. Section 10240 of the Public Resources Code is amended to read:

10240. (a) The department shall adopt rules and regulations for the implementation of this division, including the standards, criteria, and requirements necessary for approval of local government programs for acquiring agricultural conservation easements, including the eligibility criteria provided in Section 10251. The department may examine alternative agreements for the purpose of evaluating the substantive and fiscal benefits of proposals under this program.

(b) Rules or regulations adopted by the department pursuant to this section shall be adopted in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 14. Section 10241 of the Public Resources Code is amended to read:

10241. The department shall adopt the criteria necessary for its approval of grant applications from applicants for the acquisition of agricultural conservation easements.

SEC. 15. Section 10242 of the Public Resources Code is amended to read:

10242. The director shall review, and approve or disapprove, grant applications from applicants for the acquisition of agricultural conservation easements on agricultural land or the acquisition of fee title to agricultural land pursuant to Section 10239.

SEC. 16. Section 10243 of the Public Resources Code is amended to read:

10243. The department shall allocate available state funds to applicants for the acquisition of agricultural conservation easements. However, no governmental agency shall condition the issuance of an

entitlement to use on a landowner's granting of a fee interest or less than a fee interest in property pursuant to this chapter.

SEC. 17. Section 10251 of the Public Resources Code is amended to read:

10251. Agricultural conservation easements shall meet all of the following eligibility criteria prior to review pursuant to the selection criteria set forth in Section 10252:

(a) The parcel proposed for conservation is expected to continue to be used for, and is large enough to sustain, commercial agricultural production. The land is also in an area that possesses the necessary market, infrastructure, and agricultural support services, and the surrounding parcel sizes and land uses will support long-term commercial agricultural production.

(b) The applicable city or county has a general plan that demonstrates a long-term commitment to agricultural land conservation. This commitment shall be reflected in the goals, objectives, policies, and implementation measures of the plan, as they relate to the area of the county or city where the easement acquisition is proposed.

(c) The grant proposal is consistent with the city or county general plan, and the governing body of the city or county, by resolution, approves the easement proposal. For land within a city's sphere of influence, both the city and the county in which the city is located shall, by passage of a resolution, approve the grant proposal and the easement proposal.

(d) Without conservation, the land proposed for protection is likely to be converted to nonagricultural use in the foreseeable future.

SEC. 18. Section 10252 of the Public Resources Code is amended to read:

10252. If the department determines that the proposed agricultural conservation easement meets the eligibility criteria set forth in Section 10251, the proposal shall be reviewed based upon the extent to which it satisfies the following selection criteria:

(a) The quality of the agricultural land, based on land capability, farmland mapping and monitoring program definitions, productivity indices, and other soil, climate, and vegetative factors.

(b) The proposal meets multiple natural resource conservation objectives, including, but not limited to, wetland protection, wildlife habitat conservation, and scenic open-space preservation.

(c) The city or county demonstrates a long-term commitment to agricultural land conservation as demonstrated by the following:

(1) The general plan and related land use policies of the city or county.

(2) Policies of the local agency formation commission.

(3) California Environmental Quality Act policies and procedures.



(4) The existence of active local agricultural land conservancies or trusts.

(5) The use of an effective right-to-farm ordinance.

(6) Applied strategies for the economic support and enhancement of agricultural enterprise, including water policies, public education, marketing support, and consumer and recreational incentives.

(7) Other relevant policies and programs.

(d) If the land is in a county that participates in the Williamson Act (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5 of the Government Code), the land proposed for protection is within a county or city designated agricultural preserve.

(e) The land proposed for conservation is within two miles outside of the exterior boundary of the sphere of influence of a city as established by the local agency formation commission.

(f) The applicant demonstrates fiscal and technical capability to effectively carry out the proposal. Technical capability may be demonstrated by agricultural land conservation expertise on the governing board or staff of the applicant, or through partnership with an organization that has that expertise.

(g) The proposal demonstrates a coordinated approach among affected landowners, local governments, and nonprofit organizations. If other entities are affected, there is written support from those entities for the proposal and a willingness to cooperate. The support of neighboring landowners who are not involved in the proposal shall be considered.

(h) The conservation of the land supports long-term private stewardship and continued agricultural production in the region.

(i) The proposal demonstrates an innovative approach to agricultural land conservation with a potential for wide application in the state.

(j) The amount of matching funds and in-kind services contributed by local governments.

(k) The price of the proposed easement purchase is cost-effective in comparison to the actual easement value.

(l) Other relevant considerations established by the director.

SEC. 19. Section 10254 of the Public Resources Code is amended to read:

10254. Before an application for an agricultural conservation easement is approved by the department pursuant to the program, the entity that is applying for the easement shall provide public notice to parties reasonably likely to be interested in the property, including the county and city in which the property is located, conservation, agricultural, and development organizations, adjacent property owners, and the general public. Written notice shall be provided to adjacent landowners as indicated in the county tax rolls not less than 30 days prior to the expected date of the approval of the

local government required pursuant to subdivision (b) of Section 10234. The notice to the county and city shall be provided not less than 30 days before the entity applies for the grant to acquire an agricultural conservation easement.

SEC. 20. Section 10260.5 is added to the Public Resources Code, to read:

10260.5. For purposes of this division, an agricultural easement shall be recorded in the county recorder's office in each county in which the real property affected is located. Once recorded, the easement shall attach to the real property for an indefinite period, unless the agricultural conservation easement is subsequently terminated, as provided in this division.

SEC. 21. Section 10261 of the Public Resources Code is amended to read:

10261. (a) Whenever any entity exercises the power of eminent domain to acquire land subject to an agricultural conservation easement under this program, the condemnor shall pay just compensation to the owner of the land in fee and to the owner of the easement as follows:

(1) The owner of the land in fee shall be paid the full value that would have been payable to the owner but for the existence of the easement less the value of the easement at the time of condemnation.

(2) The program, and any other contributing parties if so provided in the easement, shall be paid the value of the easement at the time of condemnation.

(b) The director may provide, by regulation, or, pursuant to the terms of the easement, that in the case of acquisition of the easement by a federal agency, that the agency shall agree to the amount of compensation paid for the easement that is determined pursuant to subdivision (a), or pay the current fair market value of the land subject to an agricultural easement. The director shall distribute the proceeds of a land sale that is made in accordance with the conditions set forth in subdivision (a).

SEC. 22. Section 10262.1 is added to the Public Resources Code, to read:

10262.1. Except as provided in Section 10238, an easement may, at the request of the landowner, establish provisions that are more restrictive than those restrictions prescribed in this division.

SEC. 23. Section 10276 of the Public Resources Code is amended to read:

10276. (a) If the termination of the agricultural conservation easement is approved pursuant to this division or pursuant to a judicial proceeding in a court of competent jurisdiction, the landowner shall repurchase the easement by paying to the fund and to any other contributing parties, if so provided in the easement, the difference, at that time, between the fair market value and the

restricted value. That difference shall be determined by an appraisal approved by the state and conducted at the landowner's expense.

(b) If the landowner fails to complete the termination process by repurchasing the agricultural conservation easement within one year from the date of the department's approval of the termination of the easement, the termination approval shall lapse and the landowner shall wait at least one year before reapplying to terminate the easement.

(c) Money received from the repurchase of agricultural conservation easements shall be deposited in the fund and shall be available, upon appropriation, for the purposes set forth in this division, except as provided in subdivision (d).

(d) Where an easement was originally purchased with moneys from sources other than the program, the easement may require that moneys received from the repurchase of the easement be divided proportionally between the fund and any other funding source in amounts that are proportional to the original contribution made by each party that contributed to that purchase. If provided in an easement, a nonprofit organization that contributed to the purchase of an easement may recoup the actual amount of its contribution, plus an amount not exceeding 3 percent of the total amount of the contribution for administrative costs.

